

# Attachment A

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**ATTACHMENT A  
DRAFT RESOLUTION**

**Before the Board of Supervisors in and for the  
County of Monterey, State of California**

**Resolution No**

Resolution by the Monterey County Board of  
Supervisors to:

- 1) Find the project Categorically Exempt per  
Section 15301 (e) of the CEQA Guidelines;  
and
- 2) Approve a Variance to allow an increase in  
lot coverage from 18% to 19.9%; a Coastal  
Administrative Permit and Design Approval  
for the construction of a 440 square foot  
master bedroom/bath addition to an existing  
3,291 square foot single story single family  
dwelling.

[PLN140354, William and Susan J Jordan, 87  
Yankee Point Drive, Carmel, Carmel Area Land Use  
Plan (APN: 243-153-007-000)]

**The Jordan application (PLN140354) came on for public hearing before the Monterey County Board of Supervisors on July 7, 2015, July 14, 2015 and July 28, 2015. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:**

**FINDINGS**

1.       **FINDING:**       **PROJECT DESCRIPTION** – The proposed project is a Variance to allow an increase to lot coverage from 18% to 19.9%; a Coastal Administrative Permit and Design Approval for the construction of a 440 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling (“Project”).  
  
          **EVIDENCE:**       The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140354.
  
2.       **FINDING:**       **PROCESS** – The subject Variance, Coastal Administrative Permit and Design Approval (PLN140354/Jordan) has been processed consistent with all applicable procedural requirements.  
  
          **EVIDENCE:**   a) On November 24, 2014, William and Susan Jordan (Applicants) filed an application for a Variance request, Coastal Administrative Permit and Design Approval;  
                                  1. To allow an increase in lot coverage from 15% to 21% to allow for the construction of a 715 square foot master bedroom/bath addition to an existing 3,291 square foot single story, single family dwelling. This request was to allow the applicant to install a third bedroom in

the house.

- b) The Variance to increase coverage from 18% to 21% was evaluated as an alternative to adding an additional story in a location where there is a 20' height limitation and the coverage being similar to other Variances granted in the neighborhood (16% to 17.4%).
- c) Pursuant to MCC Section 20.84, on February 14, 2015, public hearing notices were mailed to residents within 300 feet of the subject properties and to all parties that had reason to know and were interested in the application. On February 12, 2015, the County placed a public hearing notice in the Monterey County Weekly. On February 15, 2015, public hearing notices were posted at and near the subject property.
- d) At the duly noticed public hearing on February 26, 2015, the Zoning Administrator considered the request for a Variance to exceed lot coverage, Coastal Administrative Permit and Design Approval in order to construct a third bedroom. The staff recommendation was to approve based upon the facts that the site has a 20' foot height limit, there had been other variances in the area, and the addition is in the rear yard.
- e) This information was presented to the Zoning Administrator who also listened to the testimony of the applicant. It was argued by the applicant that the variance was necessary to allow the applicant to have a third bedroom consistent with other homes in the area and the variance was needed to allow the home to be of similar size to other homes in the area. The Zoning Administrator wanted to better understand the nature of the neighborhood and directed staff to research the lot sizes, size of houses, number of bedrooms, number of second stories and any granted variances that exceeded the requested 21% lot coverage. The Zoning Administrator continued the hearing on the project to March 26, 2015 to give staff time to do the research.
- f) For the March 26 hearing staff presented information showing that:
  - 1. There are other two story houses in the area which maintain the 20' height limit;
  - 2. Some homes have two bedrooms;
  - 3. The subject house was remodeled from three bedrooms to two bedrooms;
  - 4. The coverage of other similar sized lots for which a variance has been granted is less than 18% which is the size of this existing homes; and
  - 5. The other homes in the area are of a similar size to this home.A design alternative was also submitted that highlighted a different approach for building a bedroom and bathroom. The alternative design included a single story addition of 440 square feet, thus reducing a variance request to 19.9%.

After reviewing the additional information presented on March 26, 2015, the Zoning Administrator directed staff to prepare a Resolution to Deny the project on the basis that there were no special circumstances to allow a variance and that a variance would create a special privilege for the applicant. The hearing was continued to April 9, 2015 to prepare a Resolution to Deny the Variance.
- g) At the April 9, 2015 hearing, the Zoning Administrator informed staff she had not received the staff report as of that day and, therefore, was

not able to make a decision. The project hearing was continued to April 30, 2015, at which time the Zoning Administrator denied the Variance and the remainder of the application (Zoning Administrator Resolution No. 15-028 at **Attachment D of the July 14, 2015 staff report**).

- h) The Jordans, (Appellant), represented by attorney John Bridges, pursuant to MCC Section 20.86.030, filed an appeal (Notice of Appeal at **Attachment C of the July 14, 2015 staff report**) from the April 30, 2015, decision of the Zoning Administrator. The appeal challenged the Zoning Administrator's denial of the Variance request, and contended that the findings or decision are not supported by the evidence, and the decision was contrary to law. Said appeal was filed with the Clerk of the Board of Supervisors on May 18, 2015, within the 10-day time prescribed by Monterey County Code Section 20.86.030.C. The hearing on the appeal at the Board of Supervisors is de novo. The hearing before the Board of Supervisors was duly noticed for July 7, 2015. Appellant requested a continuance because their attorney was not available for the July 7, 2015 hearing, and the Board continued the hearing to July 14, 2015.
- i) A complete copy of the appeal is on file with the Clerk of the Board, and is attached to the July 14, 2015, staff report to the Board of Supervisors as Attachment C.
- j) Said appeal was timely brought to a duly-noticed public hearing before the Monterey County Board of Supervisors on July 7, July 14, and July 28, 2015. Notice of the July 7, 2015 hearing was published on June 25, 2015, in the Monterey County Weekly; notices were mailed on June 26, 2015, to all property owners and tenants within 300 feet of the project site; and three notices were posted at and near the project site on June 25, 2015. The Board duly continued the hearing to July 14, 2015.
- k) At the public hearing on July 14, 2015, after testimony from staff and the appellant, the Board of Supervisors adopted a motion of intent to grant the Appeal and the Variance, Coastal Administrative Permit and Design Approval. The Board continued the hearing to July 28, 2015 to allow a resolution reflecting this intent to be prepared for action by the Board of Supervisors. The alternative design to allow for a 440 square foot addition with a Variance increase to 19.9%, discussed at the Board hearing, is the approved project.
- l) The application, project plans, and related support materials submitted by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140354.

3. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- Carmel Area Land Use Plan;
- Monterey County Coastal Implementation Plan Part 4;
- Monterey County Zoning Ordinance (Title 20);

No conflicts were found to exist. No communications were received

during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents. A Variance to allow an increase to lot coverage from 18% to 21% is part of the proposed project (*See Findings #8, #9, and #10*).

- b) The property is located at 87 Yankee Point Drive, Carmel (Assessor's Parcel Number 243-153-007-000), Carmel Area Land Use Plan. The parcel is zoned "LDR/1-D (20) (CZ)" [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone], which allows the construction and use of a single-family dwelling, accessory structures and associated site improvements such as those proposed by the project applicant. Therefore, the project is an allowed land use for this site.
- c) Design Approval Pursuant to Chapter 20.44, Design Control Zoning Districts, zoning for the project requires design review of structures to assure protection of the public viewshed, neighborhood character, and to assure visual integrity. Colors and materials will match the existing single family residence that consist of light avocado batt and board siding with light brown shingle roofing materials, which currently blends into the site and surroundings.
- d) The project planner conducted a site inspection on June 27, 2014 to verify that the project on the subject parcel conforms to the plans listed above.
- e) The project does not propose any tree removal, or development on slopes exceeding 30%. There is no Environmentally Sensitive Habitat onsite, nor any concern for archaeological resources (*See Finding #4*).
- f) The subject parcel is located within the public viewshed; and all future development within the viewshed must harmonize and be clearly subordinate to the natural scenic character of the area. (CLUP Key Policy 2.2.2) In 1995, CLUP Policy 2.2.5.2 was updated to include "To ensure that new development in the Yankee Point area remains subordinate to the visual resources of the area, and to ensure that visual access from Highway 1, Yankee Point Drive, and Mal Paso Road is protected, the height limit in the Yankee Point area of Carmel Highlands-Riviera, for all properties seaward of Yankee Point Drive, and for properties with frontage along the east right of way line of Yankee Point Drive that face such properties seaward of Yankee Point Drive, shall be 20 feet. In addition to such height limits, new development shall be subject to design guidelines to be adopted by the Planning Commission for the Yankee Point area. Such guidelines shall affect the visibility and design of structures in a manner so as to preserve and protect, to the maximum extent feasible, public visual resources and access described herein." By applying for the variance, the applicants are consistent with the intended policies for preservation and protection of the public visual resources by keeping development subordinate to the natural setting of the neighborhood.
- g) On December 15, 2014, the Carmel Highlands Land Use Advisory Committee recommended approval (5-0 vote). They agreed with the applicant's justification letter and wanted clarification that the roof height over the new addition does not exceed 20 feet.
- h) The application, project plans, and related support materials submitted

by the project applicant to Monterey County RMA-Planning for the proposed development found in Project File PLN140354.

4. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.
- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA- Planning, Carmel Highlands Fire Protection District, RMA-Public Works, RMA-Environmental Services, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) Staff identified potential impacts to Archaeological Resources and Soil/Slope Stability. The following reports have been prepared:
    - “Preliminary Archaeological Assessment” (LIB140424) prepared by Archaeological Consulting, Salinas CA, dated August 5, 2014;
    - “Geotechnical Investigation” (LIB140425) prepared by Pacific Crest Engineering, Watsonville, CA, September, 2014.The above-mentioned technical reports by outside consultants indicated that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff has independently reviewed these reports and concurs with their conclusions.
  - c) An archaeological report, prepared by Archaeological Consulting, concluded that the project area does not contain surface or subsurface evidence of potentially significant cultural resources; therefore, a standard condition for negative reports has been added as a condition of approval (Condition #3).
5. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:**
- a) The project was reviewed by the RMA - Planning, Carmel Highlands Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Necessary public facilities are available through Carmel Riviera Water System and a private septic system. Environmental Health Bureau has inspected the septic system and concludes the system is an appropriate size for the three bedrooms.
  - c) See Preceding Findings #1, #2, and #3 and supporting evidences regarding consistency and suitability of the project.
6. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all

rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on June 27, 2014 and researched County records to assess if any violation exists on the subject property. No violations were discovered.

7. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15301 (e), categorically exempts additions to existing structures provided the addition will not result in an increase of more than 50 percent of the floor area before the addition, or 2,500 square feet.
  - b) The proposed is an addition of 715 square feet to an existing 3,291 square foot house.
  - c) No adverse environmental effects were identified during staff review of the development application during a site visit on June 27, 2014.
  - d) None of the exceptions under CEQA Guidelines Section 15300.2 apply to this project. The project does not contain any historical resources, is not located within a scenic highway, is not located near any hazardous waste sites and will not have any cumulative impacts.
  - e) See Preceding Findings #1, #2, #3, #4, and #5 and supporting evidence for CEQA determination.

8. **FINDING:** **VARIANCE (SPECIAL CIRCUMSTANCES)** – The variance can be granted because of special circumstances applicable to the subject property, including the size, shape, topography, location or surroundings. The strict application of development standards in the Monterey County Codes is found to deprive the subject property of privileges enjoyed by other properties in the vicinity under and under identical zoning classification.

- EVIDENCE:**
- a) The parcel is zoned "LDR/1-D (20) (CZ)" Low Density Residential/1 unit per acre-Design Control District, with a 20 foot height limit in the Coastal Zone. The parcel is approximately 18,753 square feet (.43 acres). Allowable maximum lot coverage is 15%. Existing lot coverage is 18%. When the Carmel Area Land Use Plan (CLUP) was adopted in October, 1982, most of the parcels that were less than one acre became legal nonconforming as to lot coverage. The parcel is one of the smaller lots on the block between Carmel Riviera and Yankee Point Drive. The other small lots in the area have greater than 15% lot coverage.
  - b) The development standards in the LDR/1 zoning district requires a minimum one acre lot area. The subject property is less than ½ acre in size, and therefore, is substandard per the zoning district lot area requirement. Coverage requirements for higher density districts (MDR) which would have similar lot sizes would typically be 25%. The larger lot zoning (LDR) would not have allowed creation of this lot. This is a



unique circumstance applying to this property.

- c) The subject parcel is located within the public viewshed; and all future development within the viewshed must harmonize and be clearly subordinate to the natural scenic character of the area. (CLUP Key Policy 2.2.2) In 1995, CLUP Policy 2.2.5.2 was updated to include “To ensure that new development in the Yankee Point area remains subordinate to the visual resources of the area, and to ensure that visual access from Highway 1, Yankee Point Drive, and Mal Paso Road is protected, the height limit in the Yankee Point area of Carmel Highlands-Riviera, for all properties seaward of Yankee Point Drive, and for properties with frontage along the east right of way line of Yankee Point Drive that face such properties seaward of Yankee Point Drive, shall be 20 feet. In addition to such height limits, new development is subject to design guidelines to be adopted by the Planning Commission for the Yankee Point area. Such guidelines affect the visibility and design of structures in a manner so as to preserve and protect, to the maximum extent feasible, public visual resources and access described herein.”
- d) The Yankee Point neighborhood is a visually sensitive area. The proposal to add a bedroom as a single story addition rather than as a second story element respects this visual sensitivity. This will also avoid potential disruption of privacy and views enjoyed by surrounding homes. The subject parcel is also subject to a special 20 foot height limitation which is intended to preserve and protect, to the maximum extent feasible, public visual resources by keeping development subordinate to the natural setting of the neighborhood, thus physically precluding a second story addition to the existing structure. The parcels located on Carmel Riviera Drive, east of Yankee Pt. have a 26 foot height limit, allowing for second story additions. The 20 foot height limit is also a unique circumstance.

9.        **FINDING:**        **VARIANCE (SPECIAL PRIVILEGES)** – The variance does not constitute a grant of privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- EVIDENCE:**    a) The property has a zoning designation of “LDR/1-D (20) (CZ)” [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone].
- b) The neighboring property owners, also located in the LDR/1-D (CZ) Zoning District, with lot areas typically of one acre or more, are able to enjoy the privilege of construction single-family residences with building square footage well in excess of that proposed by the subject property without the necessity of a variance to exceed lot coverage.
- c) Applying large parcel zoning standards to smaller parcels such as the subject parcel is recognized in the LCP, and the smaller parcels are confirmed as suitable for development provided all resource protection policies can be fully satisfied. Because of the smaller lot size, the subject parcel cannot enjoy the same privileges of single story design that larger properties in the vicinity under the same zoning classification enjoy.

- d) Granting a variance to allow an increase to existing lot coverage from 18% to 19.9% in order to construct a 440 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling will not constitute a grant of special privilege as the existing house is smaller than most of the homes within the neighborhood. The project will add a third bedroom to the home which is consistent with the norm in the Yankee Point area.
  - e) The variance will enable the applicants to preserve the privacy and views of their neighbors, all of whom have expressed support for the project. The applicants also desire to maintain the architectural design integrity of the existing house (single story) consistent with the neighborhood character and aesthetic. Because the smaller lots in the neighborhood all exceed the 15% lot coverage, similar lot coverage variances have been granted to some of these smaller lots. (Examples include Kamellard – 17.4% (ZA7233), Danielson – 15.9% (ZA7373), Chi-Chang – 16.3% (ZA95022), and Schermerhorn – 17.1 (ZA7279).
- 10. FINDING: VARIANCE (AUTHORIZED USE)** – The variance shall not be granted for a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.
- EVIDENCE:** a) The parcel has a zoning designation of “LDR/1-D (20) (CZ)” [Low Density Residential/1 unit per acre - Design Control District (20 foot height limit) in the Coastal Zone], which allows the construction and use of a single-family dwelling, accessory structures and associated site improvements such as those proposed by the project applicant. Therefore, the project is an allowed land use for this site.
- 11. FINDING: PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:** a) No access is required as part of the project, as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan can be demonstrated.
- b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 3 in the Carmel Area Land Use Plan).
- 12. FINDING: APPEALABILITY** - The decision on this project is final.
- EVIDENCE:** a) The project proposes a Variance to exceed lot coverage, Coastal Administrative Permit and Design Approval. Pursuant to Section 20.86.080.A. of the Monterey County Zoning Ordinance, the project does not meet any of the criteria allowing for an appeal by/to the California Coastal Commission.

## **DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Board of Supervisors does hereby:

1. Find the project Categorically Exempt per Section 15301 (e) of the CEQA Guidelines; and;
2. Approve a Variance to allow an increase to lot coverage from 18% to 19.9%; a Coastal Administrative Permit and Design Approval for the construction of a 440 square foot master bedroom/bath addition to an existing 3,291 square foot single story single family dwelling, in general conformance with the attached sketch and specifications, subject to the attached conditions, being attached hereto as Exhibits 1 and 2, and incorporated herein by reference.

PASSED AND ADOPTED on this July 28, 2015, by the following vote:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book\_\_\_\_ for the meeting on \_\_\_\_\_.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors  
County of Monterey, State of California

By \_\_\_\_\_  
Deputy

